

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 6493 of 1994

Between:

Mohd. Abdul Subhan, s/o.Ramthu Miya,

Aged: about 40 years, R/o.Navalakula Gardens,

Nellore district, Nellore-2, A.P.,

..... PETITIONER

AND

1. The Mandal Revenue Officer,

Nellore Mandalam, Nellore,

Nellore District, A.P.,

2. The Special Tahsildar (Land Acquisitions)

Nellore, Nellore District, A.P.,

3. The District collector, Nellore, Nellore

District, A.P.,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or order or direction under Article 226 of the Constitution of India, particularly one in the nature of Writ of Mandamus, directing the respondents to pay the compensation for the land in Survey No.357/2-3, Patta No.343 to an extent of 0-50 cents, Nellore Bit-II village, Nellore Mandalam, Nellore District, A.P., as per market value belonging to the petitioner herein and to pass such other orders that this Hon'ble Court may deem just to pass.

Counsel for the Petitioner: MR.PRATTIPATI VENKATESWARLU

Counsel for the Respondent No.: GP FOR REVENUE

The Court made the following :

THE HONOURABLE SRI JUSTICE B. PRAKASH RAO

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WRIT PETITION NO. 6493 OF 1994

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ORDER:-

Heard the learned counsel for the writ petitioner as well as learned Government Pleader appearing on behalf of the respondents.

Petitioner herein, who claims to be the owner of the land in S.No.357/2-3, Patta No. 343, admeasuring Ac. 0-50 cents of land situate at Nellore, filed this writ petition, inter alia, for a writ of Mandamus claiming compensation since the said land was already taken over for the purpose of laying 'by-pass road' at Nellore.

The main grievance of the petitioner is that he is the owner and possessor of the land in question having purchased the same under registered sale deed dated 29-9-1973 for valuable consideration and the respondents herein having taken over the said land, did not pay the compensation.

Having heard the submissions made on either side and on perusal of the material on record, it is seen that during the enquiry, his brother, whose name appears in record and to whom notice was given, stated that it is the petitioner who is the owner of the property and not himself. In spite of the same, no notice was given to him nor compensation was paid to him. Further, it is pointed out by the learned Government Pleader that the originally, the same was assigned to another person and therefore, compensation could not have been paid to the petitioner. There is absolutely no serious dispute in regard to the title of the land in question and the brother, whose name appeared in the record, admitted that the petitioner is the owner and not himself. Hence, there cannot be any impediment in paying compensation. Further, as held by this Court, the assignees are also entitled to compensation on par with private patta holders.

Accordingly, this writ petition is allowed and the respondents are directed to pay compensation for the acquired land within three months from today. No costs.

16—07—2004.

Stv/-

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devender Gupta, the Chief Justice on this Friday, the sixteenth day of July, Two thousand and four.

To

1. The Mandal Revenue Officer,

Nellore Mandalam, Nellore,

Nellore District, A.P.,

2. The Special Tahsildar (Land Acquisitions)

Nellore, Nellore District, A.P.,

3. The District collector, Nellore, Nellore

District, A.P.,

4. Two CCs to the G.P. for Revenue, High Court Buildings, Hyderabad

(O.U.T).

5 Two CD copies.